



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

**AUG 17 1994**

**PEP - Environmental Compliance Memorandum No. ECM94-2**

**To: Heads of Bureaus and Offices**  
**From: Director, Office of Environmental Policy and Compliance**  
**Subject: Compliance With Underground Storage Tank Requirements**

The attached memorandum and Federal Agency Roundtable summary from the Environmental Protection Agency, describes measures which Federal agencies must follow to meet the December 1998 deadline for compliance with Federal UST requirements.

As you are aware, the Federal UST requirements listed in 40 CFR Parts 280 and 281 are minimum standards. The States may impose more stringent requirements and bureaus may expect to have both inspection of their USTs and enforcement action conducted by States and localities. Therefore, we believe that the referenced documents will be of assistance to bureaus in managing their UST programs.



Jonathan P. Deason

Attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

JUN 7 1994

MEMORANDUM

SUBJECT: Compliance with Underground Storage Tank Requirements

FROM: David W. Ziegele, Director *David W. Ziegele*  
Office of Underground Storage Tanks

TO: Federal Facilities Roundtable Members

Thank you for giving me an opportunity to speak with you at your May 19 meeting. I am writing this memorandum to raise three questions about Federal facility compliance with EPA regulations aimed at preventing releases from underground storage tanks:

1. What can EPA do to help you insure that Federal facility managers take timely action to comply with the requirements for spill and overfill prevention and corrosion protection? For example:

- Would you like to have additional copies of Don't Wait Until 1998 (the booklet included in the package prepared for the May 19 meeting) for distribution to all your facility managers?
- Do you need additional technical information on any aspect of the requirements for spill and overfill prevention and corrosion protection?
- Do your facility managers need help getting in touch with State underground storage tank program managers? Please bear in mind that State requirements may differ from EPA's.

If you need any of the above or something that isn't mentioned, please let us know. You can call me at 703-308-8850 or Irv Auerbach at 703-308-8862.

2. What written guidance have you provided to Federal facility managers and what standard operating procedures (SOPs) have you established (e.g., for inventory control or other methods of release detection) regarding compliance with Federal and State underground storage tank regulations? Could you



furnish us copies of such guidance documents and SOPs? Please send them to Josh Baylson, Office of Underground Storage Tanks, Environmental Protection Agency, 5402W, Washington, DC 20460. If you have any questions about this request, please call him at 703-308-8887.

3. Can you work with us to keep us informed of your progress in coming into compliance with the requirements to upgrade, replace, or close tanks by December 1998? We do not want to set up any formal reporting system, but we would appreciate your letting us know, perhaps twice each year, where you stand on this important matter. We would like to know how many tanks you have in the ground, how many have already been upgraded or replaced (to meet our new tank standards) or closed, and what your schedule is for replacing, upgrading, or closing the remainder. If you have questions, please call Irv Auerbach at 703-308-8862.

I will be happy to meet with you again if, after you have had time to think about the challenge of upgrading or replacing your tanks, you have questions that require face-to-face discussion.

cc: Jim Edward  
Don Franklin  
Josh Baylson  
Irv Auerbach

**EPA/FEDERAL AGENCY ENVIRONMENTAL ROUNDTABLE  
THURSDAY, MAY 19, 1994**

**Welcome**

**Don Franklin, Office of  
Federal Facilities Enforcement (OFFE)  
(202) 260-5908**

**Compliance with Federal Requirements  
Underground Storage Tanks**

**David Ziegele, Director  
Office of Underground Storage Tanks  
(703) 308-8850**

Mr. Ziegele announced that he would be discussing aspects of the Federal Underground Storage Tank (UST) requirements, focusing on the December 1998 deadline for compliance with replacing, upgrading, or closing all pre-December 1988 USTs that do not meet Federal regulatory requirements. He explained that Federal agencies comprise a large group of owners and operators of USTs. Petroleum and hazardous substance USTs are covered by Federal law, however, heating oil tanks and multi million-gallon steel/concrete tanks are not covered by Federal UST regulations, but are regulated by some States.

The Federal program is conducted under Subtitle I of RCRA; the regulations are found at 40 CFR Part 280. The basic UST requirements include: notification of the existence of a tank, recordkeeping, installation and closure requirements, leak detection, corrective action, reporting, and response actions. These basic requirements may be included in Federal, State, and local laws. To date, about 250,000 leaking systems have been detected. The number of leaking tanks has the potential to significantly degrade the environment.

Tanks installed after December 22, 1988, must already meet new tank standards, and existing tanks (those installed before December 22, 1988) must already meet new tank standards by December 1998. The Federal rules require that owners and operators of existing USTs ensure that their USTs have spill, overfill, and corrosion protection by December 22, 1998. (All tanks, new and existing, must now meet leak detection requirements). Federal agencies should contact State regulatory agencies for information on any earlier deadlines or additional requirements that the State may have in addition to the Federal requirements. One of the following actions must be followed for an existing UST by December 22, 1998: 1) Add spill, overfill, and corrosion protection; 2) Close the existing UST; or 3) Replace the existing UST with a new UST. He pointed out that it is not always effective to upgrade existing USTs; sometimes, it is better to replace, close, or remove USTs that do not meet the new requirements. He reminded the Roundtable members that owners/operators of USTs need to notify States of plans to close existing tanks or install new ones.

Mr. Ziegele recommended that Federal agencies that are owners and operators of existing USTs promptly act on meeting the upcoming compliance deadline in 1998. Without the protection provided by upgrading or replacing the UST, it is more likely to leak, damage the environment, and expose owners and operators of existing USTs to the liability of costly cleanups. If existing USTs have not been upgraded or have not been properly closed by the 1998 deadline, owners and operators of existing USTs can be cited for violations and fined.

He distributed the booklet, *Don't Wait Until 1998: Spill, Overfill, and Corrosion Protection for Underground Storage Tanks*. The booklet is primarily for owners and operators of existing USTs. The booklet focuses on how to meet UST upgrade requirements, and can be used to promote early compliance and proper upgrading or closure. EPA has sent the booklet to all EPA Regional Program Managers, State UST Program Managers, State Leaking Underground Storage Tank (LUST) Program Managers, State Field Offices, and State Fund Administrators. Copies of the booklet are available from EPA's Resource Conservation and Recovery Act (RCRA)/Superfund Hotline at (800) 424-9346. The EPA document number is 510-B-94-002.

Mr. Ziegele explained that the UST program is primarily a State-run program and that Federal agencies could expect to have the States and localities conduct the inspections and enforcement of the UST program provision. States and local agencies have between 2000 and 4000 staff working in the UST program. In comparison, the Federal UST program is relatively small. Nationwide, there are about 130 EPA employees who work in the UST program, 40 of whom work at EPA Headquarters. EPA Regional offices act as the liaison between the States and Federal program offices, and provide grant money and technical assistance to the States and Tribes. There is some direct enforcement from the Federal program, particularly on tribal lands; in addition, the EPA Regional offices perform some inspections at Federal facilities. However, the vast majority of inspections are conducted by State and local governments and not by EPA. Therefore, Federal agencies can expect to interact with State or local officials.

Mr. Ziegele explained that there are four main program goals and activity areas:

- 1) *Formally approve (or authorize) State programs.* To date, approximately 14 States have received formal approval of their UST programs from EPA, and the goal is to approve all States. EPA is trying to encourage States to obtain approval because State law and regulations become codified as Federal law in that State. In the case of States with approved programs, the State's requirements take precedence. For the remaining States that do not have EPA-approved programs, both Federal and State law are in effect. Therefore, it is important for Federal agencies to understand and comply with both State and Federal UST requirements.

- 2) *Leak detection compliance and enforcement.* Now that all deadlines have passed for meeting the leak detection requirements, EPA is working to build strong State programs in this area. EPA and the States perform inspections and bring enforcement actions against non-complying facilities.

- 3) *Corrective action streamlining.* EPA is working with States to streamline administrative processes so that corrective actions occur more rapidly, e.g., by reducing the number of required corrective action reports. EPA is promoting better technologies for site assessment and cleanup.

and is supporting alternatives to traditional methods of cleanup. In the past, cleanup typically involved pumping and treating groundwater, but now there is an effort to find alternatives to the pump and treat method that are cheaper, faster, and more effective.

4) *Early compliance with 1998 deadline to meet new tank requirements.* EPA is encouraging early compliance with the 1998 deadline. Early compliance includes upgrading, closing, or replacing current USTs. By December 1998, all USTs must have protection against corrosion, spills, and overflow.

Federal agencies can upgrade tanks in various ways, e.g., by installing catchment basins, adding cathodic protection, or adding internal lining. However, Mr. Ziegele reiterated, it does not always make sense to upgrade the tank; sometimes, the old tank should be replaced.

Mr. Ziegele explained that EPA encourages early compliance with the deadline. Owners and operators of existing USTs should upgrade or replace USTs early for many reasons. For example, an existing UST could have a release. New tanks are much less likely to leak. The only problems identified with USTs meeting new requirements appear to be from faulty installation. Older USTs have experienced contamination due to spills, and cleanup costs have continued to increase. Federal agencies also may want to use the lead time to start considering alternatives to USTs (e.g., above-ground storage tanks).

In many ways, the Federal agencies are analogous to non-marketers. The UST world is divided between those who own tanks in order to sell petroleum products (marketers) and non-marketers (e.g., entities that buy and store oil for their own use). A large percentage of non-marketers who own tanks are deciding to close or consolidate tanks instead of maintaining or replacing them. For example, some Federal facilities in Southern California are removing tanks and replacing them with natural gas facilities.

Mr. Ziegele asked the Roundtable participants about the types of problems the Federal agencies foresee that will prevent compliance by the 1998 deadline. A Roundtable member responded that education is needed on leak detection alarms. Turning off a leak detection alarm is a violation. Many alarms are disabled, inoperable, or improperly installed, so they are deactivated. Another participant responded that it is difficult to determine what corrective actions should be taken relating to leak detection for older tanks. Another participant added that her agency is having problems getting remediation contracts. Another Roundtable member commented that some agencies are meeting requirements by using the natural gas program to meet Clean Air Act Amendment (CAAA) requirements. A representative from the Department of the Treasury commented that their tanks are currently being closed and/or removed.

Mr. Ziegele asked about funding problems that agencies anticipated having in coming into compliance. A Roundtable member replied that they did not have enough money to develop a program to meet compliance requirements. A member of the Department of Transportation (DOT) commented that DOT is reducing its use of USTs and is instead buying gas commercially.

Mr. Franklin commented that agencies have two more Federal budget cycles for funding for compliance. He said that by the time an agency gets the project in, gets it funded, and gets the

contract out, 1998 will already be here. Federal agencies need to have the money allocated no later than the 1997 budget cycle in order to get through the contracting and procurement process in time to meet the deadlines. The year 1998 seems like sufficient time to get contracts in place, but agencies need to promptly have their plans in place.

Mr. Ziegele explained that EPA Regional Offices are often using field citations. Citations are a much more streamlined way of taking enforcement action than Administrative Orders, and more effective than Notices of Violation. Field citations resemble traffic tickets. EPA is considering using field citations with penalties at Federal agencies. Mr. Ziegele explained that these citations could be used as ammunition on budget requests.

Mr. Ziegele provided the Roundtable participants with owner/operator guidance by bringing copies of the catalog of publications, guidance documents, pamphlets, and videos that Federal agencies and facility operators may find helpful. Mr. Ziegele's number to call to receive a catalog or ask questions is (703) 308-8850.

EPA Regional Offices have noted that some Federal agencies' guidance regarding compliance with UST regulations seems to differ from the Federal regulations themselves. Mr. Ziegele requested copies of Federal facilities' guidance so that UST staff can review the guidance to ensure that there are no inadvertent discrepancies. He also suggested that Federal agencies call UST staff with questions.

#### *Questions/Answers:*

- Q. A representative from the Defense Logistics Agency asked what percentage of USTs opted for retrofit (e.g., leak detection, corrosion protection, spills, and overfill)? How many tanks have been upgraded?
- A. Leak detection must be done now. Approximately 1.3 million Federally-regulated tanks are currently in the ground. About 400,000 tanks already meet the new standards; however, there are approximately one million unprotected USTs that need to comply with 1998 standards for corrosion protection, spills, and overfill.
- Q. What is EPA's position on natural bio-degradation around the tank?
- A. EPA has not stated an official position on natural bio-degradation. States will decide on corrective action, on how clean is clean, and the appropriate methods of remediation. However, at some sites, EPA research shows that bio-degradation does occur. Because of the number of private sector cleanups that the States are paying for, States are noticing that these cleanups are expensive. This is encouraging States to identify less expensive cleanup alternatives, such as natural bio-remediation.
- Q. Of the 14 States with approved programs, do any have an earlier deadline for the December 1998 requirements?

- A. Of the States that have approved plans, no earlier deadlines come to mind; however, Connecticut has a 20-year age limit on tanks. The State laws are still in effect even if they do not have approved programs. The States can still enforce their UST laws, even if the UST program is not Federally authorized. Mr. Ziegele also explained that some States have complained to EPA that they are being ignored, even when the States have the lead in the program, because the owners and operators of the USTs believe that it is a Federal program.
- Q. Who has the lead responsibility for enforcement at Federal facilities?
- A. It can be the State or EPA.
- Q. Do any future plans exist for changing the deferral of Federal regulation of USTs for emergency generators?
- A. There is a deferral for leak-detection only. There are no plans to revisit this issue in the future.
- Q. Is this just for fuel?
- A. No, it is also for hazardous substances. Most tanks contain petroleum products, but many tanks also contain hazardous waste or hazardous substances listed under CERCLA. The Federal UST program does not regulate hazardous waste tanks since these are regulated under Subtitle C of RCRA. The UST program regulates tanks containing hazardous substances, as defined under CERCLA. The 1998 upgrade or replace requirements apply to hazardous substance tanks.
- Q. Are heating oil tanks included? Would EPA take on regulating heating oil tanks?
- A. Some States handle heating oil tanks, but it is not feasible at the Federal level to regulate these tanks due to their large number.
- Q. Are there requirements for spill containment for heating oil tanks?
- A. Spills from heating oil tanks are not Federally regulated under Subtitle I of RCRA.
- Q. Does the UST program have authority under the Federal Facilities Compliance Act (FFCA) for penalties? The Department of Defense (DoD) believes that UST does not have such authority.
- A. EPA has penalty authority under RCRA Subtitle I; however, they are delaying penalties because they are waiting to clear legal problems.
- Q. A representative from the Army mentioned that they were moving toward using consolidated fuel storage, and asked the Defense Logistics Agency (DLA) for information on the consolidated fuel center that they created.



- A. A representative from DLA said that DLA will provide information by marketing the concept of consolidated fuel centers throughout the services.
- Q. DLA asked the Army if they were interested in the cleanup of tanks.
- A. The Army stated that their main focus is on fuel consolidation and closeout.
- Q. How many manufacturers of USTs exist?
- A. There are several dozen manufacturers. There are three main types of tanks that include: fiberglass, composite, and steel with cathodic protection.
- Q. What types of manufacturing controls exist?
- A. The controls are not from EPA. The controls are from industry standards (Underwriters Laboratory (UL)), and States. Many new USTs have the UL label, which meets the requirements.

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